



OCA 89-0778
21 March 1989

MEMORANDUM FOR: (See Distribution)

FROM:

Acting Director of Congressional Affairs

SUBJECT: Senate Confirms Richard Kerr as DDCI

1. On 16 March 1989, the Senate confirmed Richard J. Kerr as Deputy Director of Central Intelligence.

2. Attached (from the Congressional Record of 16 March 1989) are floor statements concerning the nomination by Senators Murkowski, Cohen, Warner, Specter, Boren and Metzenbaum.

Attachment

OCA/LEG

(20 March 1989)

Distribution:

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March 16, 1989

CONGRESSIONAL RECORD — SENATE

S 2959

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. BOSCHWITZ. Mr. President, today the Senate takes note of a historic treaty which, for the first time since the founding of Israel in 1948, proved that differences in the Middle East can be settled peacefully. I am pleased to introduce, along with my colleagues Senator PELL, Senator HELMS, and Senator MOYNIHAN, a resolution congratulating both Israel and Egypt for their decade of observance to their peace treaty. In a region so sorely harmed by violence, this treaty proves that once former enemies can move willingly along the previously uncharted paths of peace.

What a message this sends to other peoples and nations in the Middle East, so deeply steeped in conflicts. Perhaps the most important lesson we learn from the events leading to the peace treaty is that peace comes not because nations want war less, but because they want peace more. Once the psychological adjustment is made to try to achieve peace, everything else is possible.

The treaty stands as a testament and beacon of what can be accomplished through the diligence, persistence, and vision of national leaders committed to peace. To achieve the treaty, great acts of courage were taken. President Sadat's journey to Jerusalem broke the psychological and physical barriers separating Israel and Egypt. Similarly, Prime Minister Begin reflected the strong desire of his people for peace and seized the opportunity for peace when it arose. His courage in agreeing to return the entire Sinai Peninsula, an oil-rich area twice the size of Israel, is an example of statesmanship that will not soon be forgotten.

President Jimmy Carter showed vision and determination, tirelessly working for the achievement of the treaty. In the process, he accomplished a task which many had said was impossible.

Unfortunately, the other parties to the conflict have yet to see the wisdom of the course charted in the peace treaty. Had others followed the path of Israel and Egypt, years of violence could have been voided and the current Palestinian uprising might never have occurred.

Nevertheless, today we see some glimmers of hope on the horizon. And while a comprehensive formal peace may still be some distance away, I am optimistic that the day will come when direct negotiations among the parties will begin, bringing hope of peace to a region which deserves and needs it perhaps more than any other.

Mr. President, I strongly urge my colleagues to adopt this resolution.

The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble reads as follows:

S.J. Res. 87

Whereas in Washington, District of Columbia, on March 26, 1979, the Governments of Israel and Egypt, with the support and encouragement of the United States, signed a treaty of peace formally ending their state of war;

Whereas this treaty, the only peace agreement between Israel and an Arab nation, remains a crucial element in fostering peace in the Middle East;

Whereas under terms of this historic document Israel and Egypt agreed to end the state of war between them, Israel fully withdrew its military forces and civilian settlements from the Sinai Peninsula, and Israel and Egypt established formal diplomatic relations, including the exchange of ambassadors;

Whereas the establishment of peace between Israel and Egypt demonstrates that direct bilateral negotiations are the most effective way to resolve the Arab-Israeli conflict and can lead to lasting and mutually beneficial results;

Whereas the other parties to the conflict have been unwilling to enter into direct bilateral negotiations but continue to maintain a state of war against Israel;

Whereas the continuation of the conflict has exacted a high cost in human lives and human suffering from both Israelis and Arabs; and

Whereas the treaty has allowed the peoples of Israel and Egypt to begin to build a network of cultural, economic, personal, and political contacts among themselves; Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States Government—

(1) Commends Israel and Egypt for their historic act of courage and statesmanship in signing the Treaty of Peace of March 26, 1979;

(2) calls upon the President to mark this historic anniversary with appropriate public activities;

(3) welcomes the willingness of Israel and Egypt to continue to observe the international obligations they have accepted which have contributed to the peace and stability of the region; and

(4) calls upon other Arab nations and the Palestinians to follow the example of Israel and Egypt, to join actively in the peace process, to renounce the state of war and acts of violence, and to enter into face-to-face negotiations to achieve a just and lasting peace.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXECUTIVE SESSION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the following nominations en bloc: Executive Calendar Nos. 44, 45, 46, 47, and all nominations placed on

the Secretary's desk in the Air Force, Army, Navy, Public Health Service.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. Without objection, the nominations are considered en bloc and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

(NEW REPORTS)

IN THE ARMY

The following-named officer for appointment to the grade indicated, under the provisions of title 10, United States Code, section 601(a), in conjunction with assignment to a position of importance and responsibility designated by the President under title 10, United States Code, section 601(a):

To be general

Lt. Gen. Colin L. Powell, 113-28-4024, U.S. Army.

The following-named officer for appointment to the grade indicated, under the provisions of title 10, United States Code, section 601(a), in conjunction with assignment to a position of importance and responsibility designated by the President under title 10, United States Code, section 601(a):

To be lieutenant general

Maj. Gen. Donald W. Jones, 401-48-2610, U.S. Army.

The U.S. Army Reserve officers named herein for appointment as Reserve Commissioned Officers of the Army, under the provisions of title 10, United States Code, sections 593(a), 3371 and 384:

To be major general

Brig. Gen. Joseph H. Brooks, 055-26-6910.
Brig. Gen. James W. Holstinger, Jr., 243-68-8212.

Brig. Gen. Homer A. Johnson, Jr., 002-22-4520.

Brig. Gen. James R. Land, 424-36-0128.
Brig. Gen. John R. McWaters, 240-46-6314.

Brig. Gen. Eugene J. Yonno, 140-26-3940.

To be brigadier general

Col. William J. Collins, Jr., 119-32-9836.
Col. Edgardo A. Gonzales, 580-62-6226.

CENTRAL INTELLIGENCE

Richard J. Kerr, of Virginia, to be Deputy Director of Central Intelligence, vice Robert M. Gates, resigned.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE AIR FORCE, ARMY, NAVY, PUBLIC HEALTH SERVICE

Air Force nominations beginning Eugene A. Beardslee, and ending Floyd J. Wygant, II, which nominations were received by the Senate on March 1, 1989, and appeared in the CONGRESSIONAL RECORD of March 2, 1989.

Air Force nominations beginning David L. Cloe, and ending Roger P. Suro, which nominations were received by the Senate on March 1, 1989, and appeared in the CONGRESSIONAL RECORD of March 2, 1989.

Air Force nominations beginning Michael L. Abbott, and ending Daniel C. Zook, which nominations were received by the Senate on February 1, 1989, and appeared in the CONGRESSIONAL RECORD of March 2, 1989.

Air Force nominations beginning Timothy L. Abel, and ending William P. Zuber, which nominations were received by the Senate on March 1, 1989, and appeared in the CONGRESSIONAL RECORD of March 2, 1989.

Army nominations beginning Barbara M. Alving, and ending Edmund P. Wiker, which nominations were received by the Senate

S 2960

CONGRESSIONAL RECORD — SENATE

March 16, 1989

and appeared in the CONGRESSIONAL RECORD of January 3, 1989.

Army nominations beginning Eric D. Adrian, and ending Charles J. Yowler, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 3, 1989.

Army nominations beginning Shirley O. Ford, and ending Charles Ferris, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 3, 1989.

Army nominations beginning Kenneth P. Adgie, and ending Karl D. Zetmeir, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 3, 1989.

Army nominations beginning Michael C. Aaron, and ending Randal D. Robinson, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 3, 1989.

Army nominations beginning Frank E. Chapple, II, and ending Bonnie L. Smoak, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of February 8, 1989.

Army nominations beginning Bram H. Bernstein, and ending James R. Woods, Jr., which nominations were received by the Senate on March 1, 1989, and appeared in the CONGRESSIONAL RECORD of March 2, 1989.

Army nominations beginning John M. Long, and ending Thomas E. Rigsbee, which nominations were received by the Senate on March 1, 1989, and appeared in the CONGRESSIONAL RECORD of March 2, 1989.

Army nominations beginning Robert H. Langston, and ending Gary S. Madonna, which nominations were received by the Senate on March 1, 1989, and appeared in the CONGRESSIONAL RECORD of March 2, 1989.

Navy nominations beginning Arne J. Anderson, and ending Kristen C. Zeller, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of March 3, 1989.

Navy nominations beginning Michael J. Epstein, and ending Benjamin T. Po, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of March 7, 1989.

Navy nominations beginning Kelly N. Alvey, and ending David B. Hurst, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of March 7, 1989.

Navy nominations beginning John B. Anderson, and ending Jerry Lee Zumbro, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of March 7, 1989.

NAVY nominations beginning David A. Austin, and ending Sheldon L. Weider, which nominations were received by the Senate on March 1, 1989, and appeared in the CONGRESSIONAL RECORD of March 2, 1989.

Public Health Service nominations beginning Duane F. Alexander, and ending Beverly A. Roth, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 3, 1989.

RICHARD KERR

Mr. MURKOWSKI. Mr. President, I am pleased to join in the unanimous recommendation of the Select Committee on Intelligence to the Senate that Richard Kerr be confirmed as Deputy Director of Central Intelligence. This is a matter of some consequence because the Deputy Director is second in command of the diverse agencies and vast resources that com-

prise the intelligence community of the United States.

Like his predecessor, Mr. Kerr is a career officer of the CIA. This is as it should be. While the President must have an individual of his own choosing as the Director, it is critical that political considerations play no role in the selection of the subordinate management of the intelligence process if that process is to maintain its integrity. There is no place for "good news only" intelligence that tries to tailor facts and analysis to fit policy and politics.

The requirement for unbiased intelligence is matched by the need to provide that intelligence to the key policymaking element of the Government. The Congress shares with the executive branch primary responsibility for formulating foreign and national security policy. This responsibility carries with it a right to relevant available information, including intelligence. This is particularly true of the Intelligence Committees which have both an oversight responsibility toward the intelligence community and are charged by the Congress to be the channel of access to the most sensitive intelligence information.

In his responses to questions for the record I detected a reluctance on Mr. Kerr's part to accept the right of the Intelligence Committees to have full and assured access to intelligence—including the reporting that goes into finished intelligence and to all special compartments. The precise conditions of access can be worked out in specific cases, but the principle is not negotiable.

Assuming agreement on this point, I look forward to a constructive and cordial working relationship with Mr. Kerr in his new, and important, capacity.

Mr. COHEN. Mr. President, I join with Senator BOREN in recommending to my colleagues the nomination of Richard J. Kerr to be Deputy Director of Central Intelligence.

Mr. Kerr is an intelligence professional in the truest sense of the term, having spent his entire career with the Central Intelligence Agency. Although he may not be well known to the public or, indeed, to Members of this body, he is well known to the Intelligence Committee. We have worked closely with him in the past, and have come to respect his integrity and abilities. We anticipate that he will continue to work with the committee in a spirit of candor and cooperation.

In my statement at Mr. Kerr's confirmation hearing, I observed that the Intelligence Committees spend a great deal of time in the area of covert actions, and that the relationship between the intelligence community and the committees has, for the most part, been excellent.

However, I also said that I was not satisfied with the way things have been left with respect to the requirements for reporting covert actions to Congress. Last year, I introduced legis-

lation, S. 1721, which would have established a time certain of 48 hours for the President to report covert actions to the Congress. We passed that bill by a 71-to-19 vote, but it never came before the full House for a vote.

So we are still left with the Reagan administration's Justice Department determination that a President has unfettered discretion to interpret what his obligations are under the existing language calling for reporting "in a timely fashion." Last year's vote shows that this formulation is not acceptable to the Senate and it is a matter which must be resolved. I stated that I would work to reach an accommodation with the new administration, but if that was not possible—indeed, if progress was not made in the near future—I would reintroduce legislation requiring that notice of covert actions be given within 48 hours.

I asked the nominee about his views with regard to the requirement that the President report a finding authorizing a covert action to the two Intelligence Committees. Mr. Kerr testified that the congressional oversight role should be to examine the foreign policy premise of a proposed covert action, and to ensure that it is consistent with publicly stated U.S. policy and that the intelligence community had examined the risks of a proposed action in detail. Mr. Kerr also testified that it would be difficult for him to imagine a circumstance where the committees would not be informed in advance of a proposed action.

In Mr. Kerr's view, the congressional oversight function is necessary and positive. His testimony indicates that he believes the intelligence committees should be kept fully and currently informed of covert actions and other intelligence activities. I am pleased that Mr. Kerr has taken that position and look forward to working with him.

His confirmation in the position of Deputy Director of Central Intelligence will add another experienced and capable member to the President's national security team. I believe the appointment of Mr. Kerr will have a salutary effect on policymaking not only within the intelligence community, but within the Government as a whole. I urge the Senate to confirm him.

Mr. WARNER. Mr. President, I am pleased to join my colleagues from the Intelligence Committee to recommend for Senate confirmation Mr. Richard Kerr to be Deputy Director of Central Intelligence.

I congratulate Dick on receiving the President's nomination to serve as the Deputy Director of Central Intelligence. Such a nomination is clear evidence of the trust which the President places in him. I am confident that this trust is the result of Dick's vast experience in the intelligence community and his impeccable personal attributes.

March 16, 1989

CONGRESSIONAL RECORD — SENATE

S 2961

Dick joined the Central Intelligence Agency in 1960 as an analyst. He has worked hard, performed well, and, accordingly, progressed through the ranks. Over the last 15 years, he has held a variety of senior level positions, both at the CIA and on the intelligence community staff. Since early 1986, he has served as the Deputy Director for Intelligence, the highest analytical position at the CIA. He is also a member of the Covert Action Review Group.

Along with his vast experience, Dick has had many noteworthy accomplishments over the years.

In the early 1960's, as a junior analyst, Dick was directly involved in supporting our policymakers during the Cuban missile crisis. Initially, he prepared the daily current intelligence reports on the confrontation, and later, was responsible for the daily reports on the subsequent withdrawal of Soviet missiles from Cuba. I might add that there are few intelligence analysts remaining in public service whose career spanned the Cuban missile crisis, the most serious confrontation of the post war era. The experience Dick gained during this time has prepared him well for handling critical national security emergencies.

During the 1970's, Dick's performance was consistently exemplary. He led an intelligence community planning group, the first of its kind, that was responsible for developing a major new collection program which provided timely and useful information for the intelligence community. The success of this effort is well-known within the U.S. Intelligence community.

In the 1980's Dick initiated the daily briefings of senior administration officials to ensure that they receive the most accurate and up-to-date intelligence data in order to make informed decisions.

Throughout his career, Dick Kerr's contributions have had a highly significant impact on the intelligence community. In recognition of these contributions, Dick has received the National Intelligence Distinguished Service Medal and the Distinguished Intelligence Medal.

Mr. President, when I review Dick's experience and performance, it is clear to me that, because of his almost 30 years of dedicated work at various levels within the intelligence community, Dick Kerr has reached the top of his profession because he has truly earned it.

Additionally, let me note that Dick Kerr's answer to the committee's questions during the confirmation hearings were both thoughtful and open. He assured us that, as the Deputy Director of Central Intelligence, he would continue to be truthful and forthcoming with the committee, and that he would work to ensure that the intelligence community as a whole would do the same.

In summary, Dick Kerr's experience, intelligence, honesty and hard work

have equipped him to deal effectively with the critical issues and challenges which face the United States and the intelligence community in the decade of the 1990's. Without a doubt, he is well qualified to assume the important and delicate position of Deputy Director of the Central Intelligence. I am fully confident that he will manage and represent the intelligence community well in this position, ensuring the best possible support to policymakers in both the executive and legislative branches of Government.

Mr. President, I strongly recommend that the Senate confirm Mr. Richard Kerr to the position of Deputy Director of Central Intelligence.

Mr. SPECTER. Mr. President, as we move to Senate consideration to confirm Richard Kerr as Deputy Director of Central Intelligence, I would like to say that I am impressed with Mr. Kerr's extensive background, broad experience and familiarity with the full range of intelligence issues. With nearly 30 years in key positions at CIA and on the intelligence community staff, he unequivocally qualifies for the accolade of career intelligence professional. Therefore, I plan to cast my vote in support of his nomination.

But, being a career professional carries special responsibilities for Mr. Kerr. The administration, the Congress and the American public can rightfully assume that he not only understands fully the laws, rules and needs of intelligence, but also knows when, where and how to speak up when policies or programs are running adrift of those very laws, rules and needs. I think it appropriate to say again today, as I have told Mr. Kerr privately and before the Intelligence Committee, that I harbor concerns about the timely reporting on covert actions. Second, I am concerned that the current management structure of the intelligence community is outmoded and will not allow him to perform effectively.

In the wake of the entire Iran-Contra affair, we are no closer to a binding agreement in law on when covert activities will be reported to the Congress. And, in fact we may have regressed. My pending legislation calling for reporting within 24 hours has a very sound basis. It is to ensure that covert activity is based on sound, coherent foreign policy and that all of the statutory members of the National Security Council are aware of and in support of the policy and planned covert activity.

In addition, it is to ensure that there is effective oversight over the agency implementing the covert action. One of the most devastating things that can happen to U.S. foreign policy and our intelligence agencies is for a Secretary of State to appear before the Congress and state that:

One of the reasons the President was given . . . wrong information . . . was that the Agency or the people in the CIA were too involved in this—that I had come

to have great doubts about the objectivity and reliability of some of the intelligence I was getting . . .

Those were the words of former Secretary Shultz on the CIA's role in the Iran-Contra affair.

Mr. Kerr will be making decisions together with the DCI on all covert actions. He has told us that in "almost all instances the Intelligence Committees should be given prior notice of them." He has told us that the Intelligence Committees could have been notified earlier on the Iran covert action. This seems to suggest that in the future the Congress will be informed of a covert action somewhere in the uncertain range of prior to such activity but less than the 14 months of the Iran covert action. Because of this uncertainty, I shall continue to seek legislation to require the reporting of all covert actions within 24 hours.

Second, I am concerned that—given the outmoded management structure of the intelligence community—Mr. Kerr can effectively contribute the leadership needed. For this, he needs some legislative assistance.

Mr. Kerr has stated to us that he expects his role as DDCI will be somewhat more of the day-to-day manager of CIA and community activities because the DCI is so heavily focused on relations with Congress and direct contacts with policy makers.

In my view this is a near-impossible task.

Today, the director of central intelligence is trying to manage simultaneously the vast entities of the intelligence community and the CIA. In 1947, those entities were relatively small. Now, however, the intelligence community—that vast and complex network of some 14 departments, agencies and offices has grown to staggering proportions in terms of budget, people and missions.

When we add to that the need for interdependency, close coordination, cooperation and timeliness of information, the demand for a full time intelligence community director becomes all too apparent. As an example, in the 1990's, a far greater amount of satellite data will be available. But, in the face of tight budgets, the plans of the several intelligence agencies competing for exploitation resources must be better coordinated and managed. The consequences of inadequate coordination and management may well be a lack of confidence in the assessments of conventional force reductions in the Soviet Union and Eastern Europe. The leadership hand of the DCI must be more apparent.

Before he retired last year, Lieutenant General Odom, Director of the National Security Agency stated publicly that the intelligence community is "institutionally fragmented."

In my view, the reason why it is fragmented is because the management system is outmoded. It lacks the close day-to-day management which

S 2962

CONGRESSIONAL RECORD — SENATE

March 16, 1989

only a full time director can provide. The closest I can draw in parallel is to envision the Secretary of Defense also trying to manage the Navy Department—on a day-to-day basis, while also trying to manage the entire defense establishment. I am convinced that the deck is stacked against Mr. Kerr.

Mr. President, I shall vote "yea" on Mr. Kerr's nomination, but I am concerned about efficient senior management of the intelligence community. I also believe that there need to be a better mechanism to ensure the vetting, control and reporting of covert actions. Therefore, in the months ahead, I shall seek to achieve passage of my legislation to enhance the management and leadership of the intelligence community and covert actions by calling for a full time Director of National Intelligence.

Mr. BOREN. Mr. President, the nomination of Richard J. Kerr to be Deputy Director of Central Intelligence was reported to the Senate yesterday pursuant to a unanimous vote of the Senate Select Committee on Intelligence with a recommendation that he be confirmed. On behalf of myself and Senator COHEN, in our respective capacities as chairman and vice chairman of the committee, we urge the Senate to act favorably on this nomination.

The committee made a complete and thorough inquiry of the nominee's qualifications as well as his views on issues of mutual concern, and concluded that he is qualified by both experience and temperament to hold this sensitive and critical position.

As you may be aware, Mr. President, this position is established by the National Security Act of 1947. The incumbent is given responsibility, comparable to the Director of Central Intelligence, both to manage and supervise the activities of the Central Intelligence Agency, as well as coordinate the activities of the U.S. intelligence community. Obviously, he carries out these responsibilities under the direction of the Director of Central Intelligence, but it is important to recognize that the authorities of the Deputy correspond to those of the Director himself.

In the remainder of my remarks, I will summarize for my colleagues the nature of the committee's inquiry, and highlight the key features of Mr. Kerr's testimony to the committee.

SUMMARY OF COMMITTEE INQUIRY

Although the committee did not officially receive the nomination until February 21, 1989, President-elect Bush had announced his intention to appoint Richard J. Kerr to be Deputy Director of Central Intelligence on December 29, 1988.

The committee required Mr. Kerr to submit sworn answers to its standard questionnaire for Presidential appointees, setting forth his background and financial situations. It also required sworn answers to its questions concerning Mr. Kerr's involvement in the

so-called Iran-Contra affair. These were submitted to the committee on January 19, 1989.

The committee reviewed all statements previously made by Mr. Kerr before it as well as his statement before the Iran-Contra committees. The statements of other witnesses involved in the Iran-Contra affair were also reviewed for information bearing upon Mr. Kerr's involvement in this matter. All statements attributed to Mr. Kerr on the public record were also reviewed, and informal inquiries were made of present and former colleagues.

On February 21, 1989, the committee received a letter from the Director of the Office of Government Ethics transmitting a copy of the financial disclosure statement submitted by Mr. Kerr. The Director advised the committee that it disclosed no real or potential conflict of interest.

The chairman and vice chairman also reviewed the FBI investigation done for the White House on Mr. Kerr.

The committee held a confirmation hearing on Mr. Kerr on February 28, 1989, at which time the nominee was questioned on a variety of topics. Subsequently, written questions were submitted to the nominee for additional responses.

Based upon this inquiry, the committee reported the nomination to the Senate on March 14, 1989, by a unanimous vote, with a recommendation that Mr. Kerr be confirmed.

HIGHLIGHTS OF TESTIMONY

BACKGROUND OF NOMINEE

Mr. Kerr, 53, is currently Deputy Director for Intelligence at the Central Intelligence Agency, a post he has held since April 1986. He has spent his entire professional career at CIA, having joined the Agency upon his graduation from the University of Oregon in 1960. During his tenure at CIA, in addition to his present capacity, he has served as Deputy Director for Administration, 1986; Associate Deputy Director for Intelligence, 1982-85; Director for East Asian Analysis, 1981-82; and Director of Current Operations, 1979-81. He has also served a total of 7 years on the intelligence community staff, which serves as the DCI's staff for exercise of his community responsibilities.

The nominee holds a bachelor's degree from the University of Oregon, where he also had a year of graduate study. He is married with four children, and lives in Virginia.

VIEWS ON CONGRESSIONAL OVERSIGHT

In his opening remarks to the committee, Mr. Kerr described Congress' oversight of the Intelligence Community as both "necessary" and "positive." While saying that such oversight has not been without its problems and difficult moments, Mr. Kerr:

It assures the American people that activities that must be conducted in secret are being reviewed by their elected representa-

tives, and are also being carried out in a lawful manner.

To make this process act effectively, the nominee continued:

It is vital that there be confidence and trust between the Intelligence Community and Members and staffs of the Intelligence Committees. Members must have confidence that they are receiving complete and candid answers, and that the intelligence professionals are telling them the full story and not holding back information.

The nominee pledged such candor and truthfulness in his future dealings with the committee.

On the question of reporting covert actions to the two intelligence committees, the nominee stated that he found it "difficult to imagine" any circumstance where Presidential findings, authorizing covert actions, could not be reported to the two Intelligence Committees within a matter of several days. He furthermore stated that any decision to withhold prior notice of such operations would have to be made by the President based upon "sensitive, compelling" circumstances, and ultimately upon his determination that—

That decision outweighed his commitment for notification of Congress and involvement of Congress in a bipartisan activity.

With regard to the failure of the previous administration to notify Congress of the Iran arms sales finding, Mr. Kerr stated that:

I believe that the committee could have been notified earlier . . . than it was.

The nominee also pledged to report illegal activities to the Intelligence Committees if they were undertaken by employees of, or persons acting on behalf of, the intelligence community. He stated further that he thought advising the committees of illegal activities on the part of others with whom the intelligence community had relationships "wise," and "would fall into the general provisions of notifications of significant activity."

ROLE AS DDCI

In explaining the role of the DDCI, the nominee responded:

The role of the DDCI is to assist the DCI by performing such functions as the DCI assigns or delegates. He acts for and exercises the powers of the DCI in his absence. My role in managing the Intelligence Community will be to support the DCI in the coordination of Community priorities and requirements, development of the National Foreign Intelligence Program budget, and examination of critical cross disciplinary intelligence problems. I expect my role will be somewhat more of the day-to-day manager of the CIA and Community activities because the DCI is so heavily focused on relations with Congress and direct contacts with senior policymakers.

The nominee also told the committee that as DDCI, he—

. . . will work with the DCI to sharpen the intelligence product and make it more relevant to policymakers. (Another) major responsibility is to assist the DCI in assuming a stronger leadership role in the community. This will be more critical as budgetary constraints force hard decisions on resource

March 16, 1989

CONGRESSIONAL RECORD — SENATE

S 2963

issues. I plan to take some of the day-to-day administrative burdens off the DCI, but it is clear to me he intends for me to be involved in all of the major issues as well.

Commenting upon his goals as DDCI, the nominee further stated:

The provisions of timely, accurate, and objective information to our policymakers so that they can make informed decisions is in my view the most important function of the CIA and the Intelligence Community. We are not policymakers. Our role is to provide policymakers with unbiased intelligence, even if the intelligence does not support the policy being advocated, or even the policy that has been adopted.

ROLE IN THE IRAN-CONTRA AFFAIR

Mr. Kerr had a peripheral role in the Iran-Contra affair, beginning with his appointment in May, 1986, as Deputy Director for Intelligence.

In May 1986, Mr. Kerr was asked to provide intelligence on Soviet forces on the Soviet-Iran border for use by the McFarlane delegation going to Tehran in the middle of that month. Mr. Kerr inquired as to whether the provisions of such intelligence had been properly authorized by the President, and he was provided such assurance by the Deputy Director of CIA.

In "late summer, 1986," Mr. Kerr was advised for the first time by the national intelligence officer for counterintelligence, Charles Allen, of the arms sales to Iran as well as Allen's speculation that profits from the arms sales were being diverted to aid the Nicaraguan resistance. Mr. Kerr states he communicated these concerns to the Deputy Director of CIA "shortly thereafter," although the Deputy Director has, in other fora, testified he has no recollection of such a conversation. Mr. Kerr testifies that the Deputy Director asked him to keep him—the Deputy Director—advised of any future developments, but Mr. Kerr took no further actions in this regard.

In October 1986, Mr. Kerr was twice was asked to support the then-ongoing Iran initiative. First, he was requested to provide intelligence to be passed to the Iranians involved in the negotiations. Later, he was asked to have CIA analysts evaluate maps reportedly provided by Iran purporting to show Soviet forces on the Iran-Iraq border. Mr. Kerr testified that on both occasions he sought approval from his superiors to ensure there were no objections to providing the support being requested.

The committee concluded that Mr. Kerr's role in the Iran-Contra affair had been peripheral, and, on the basis of available information, did not disclose any improper or illegal activity on his part.

INTELLIGENCE ANALYSIS

The nominee provided assurances to the committee that intelligence analysis would remain objective and opportunities for dissenting views to be made known would be preserved. He also advocated challenging from time to time the accepted policy consensus:

You need to sensitize people to thinking about problems in different ways . . . bring in outside people and have them talk to those on the inside . . . (to) probe the organizational point of view.

Mr. Kerr also expressed his belief that too much intelligence analysis focused upon providing answers to problems rather than identifying opportunities for the policymaker:

I think intelligence has a role in identifying where opportunities might exist, where there is leverage, or where there are things that a policymaker can take advantage of . . . we tend to focus too much on the problem as opposed to the opportunity.

In commenting upon perceptions by one Member that the intelligence community had failed to predict certain actions on the part of the Soviet Union, for example, the Gorbachev proposals at Reykjavik, the nominee commented that he did not necessarily agree that it was the responsibility of the intelligence community to—

Predict outcomes in clear, neat ways, because that is not doable . . . What our business should be in this is to provide enough understanding of the issue . . . the possible outcomes and their implications for the policymaker . . . and, if we can, (provide) the one we think is most likely based upon the intelligence that we have.

CHALLENGES FACING THE INTELLIGENCE COMMUNITY

The nominee, in his testimony, identified a number of challenges facing the intelligence community.

First, he pointed out that:

The Soviet Union is attempting extraordinary and unprecedented change. It will be vital to have timely and accurate information . . . on the impact of Gorbachev's reforms on Soviet domestic and foreign policy. We must also analyze closely European and other foreign reactions to the . . . new Soviet policy initiatives.

He also pointed to arms control and the ability of the intelligence community to "monitor the numbers, deployments, and capabilities of Soviet strategic forces." And he pointed to the need to monitor such critical developments as "continuing Third World debt and instability" and "the emergence of Asia as an economic powerhouse."

The nominee also pointed out that:

A more focused and better coordinated effort against narcotics traffickers needs to be established within the Intelligence Community, and the support mechanism between the Intelligence Community and the drug enforcement agencies must be improved.

He also stated that:

The counterintelligence threat continues to grow, and we must build upon improvement already made . . . if we are to be successful in defeating the challenge posed by hostile intelligence services.

Finally, he noted the challenges posed by the proliferation of chemical and biological weapons capabilities, illegal technology transfer, and international terrorism are "as great as ever." While he noted that "a good deal" had been done already, "we need to do more."

CONCLUSION

The foregoing summarizes only the highlights of the record the committee, which is, of course, available to all Members in its entirety at the Intelligence Committee.

Based upon the nominee's statements to the committee, however, his exemplary record of distinguished service to the intelligence community, and the absence of any derogatory or otherwise disqualifying information concerning him, the Select Committee on Intelligence voted to report his nomination to the Senate with a recommendation that he be confirmed by the full Senate as Deputy Director of Central Intelligence.

Mr. METZENBAUM. Mr. President, as we move to confirm the nomination of Mr. Richard Kerr as Deputy Director of Central Intelligence, I would like to make some observations.

First, when I look at Mr. Kerr's background, I largely like what I see. I am glad to see an intelligence professional in one of the two top intelligence positions. Judge Webster's FBI background gives him experience in counterintelligence and in aspects of the fight against terrorism and narcotics trafficking. Mr. Kerr will add a familiarity with foreign countries, with foreign policy, and with intelligence community operations and programs.

I am also pleased that the new Deputy Director of Central Intelligence will have experience in intelligence analysis. The public often thinks of intelligence in terms of secret operations, and we on the Intelligence Committee often concentrate on the big budget items. But day in and day out, the analytic functions of our intelligence agencies have the most profound impact on U.S. policies. It is the analysts who use the technical data and the information from secret sources; most of the time it is the analytic officials who interact with policymakers and produce the intelligence that they read.

I am still not sure, however, that Mr. Kerr will contribute the kind of leadership we need from the senior professional in the intelligence community. He has the background, but his performance too often seems bureaucratic and uninspired. This was particularly the case in some of his answers to questions for the record.

When we asked whether the Presidential Finding on the Iran arms sale program could have been given to the committee within 24 or 48 hours, Mr. Kerr's answer was: "In my view, I believe the committee could have been notified earlier of the Iran finding than it was." That is not a very forthcoming response.

When we asked about the need for budget cuts, Mr. Kerr replied, "we will be making some difficult choices." But he gave neither specifics nor any criteria by which he would make those choices.

S 2964

CONGRESSIONAL RECORD — SENATE

March 16, 1989

Mr. Kerr gave a rather puzzling answer to the committee's question regarding access, when necessary, to raw intelligence. He granted the committee "the responsibility to carefully examine the evidential basis for intelligence community judgments," but opposed "its own competitive analysis" and ended up saying the committee should "ask us hard questions about the sources of our information and their reliability, and * * * our analytic approach and the process of review." I don't know where that leaves us.

In the covert action field, we asked whether Mr. Kerr had ever disagreed with a decision. His reply was as follows: "Any reservations I have had about covert action proposals have been included in the documentation going forward to the DCI. My concerns have always been well addressed." That is a fine expression of loyalty to Bill Casey, Bob Gates, and Bill Webster. But it doesn't tell us much about where Mr. Kerr is going to come out.

When it comes to intelligence analysis, Mr. Kerr believes that the CIA already does a good job of providing forthright analysis relating to covert action programs. He sees no lessons to be learned from the history of the national intelligence estimates relating to the Iran arms sales. And he sees few problems in the relationship between intelligence and policy, partly because "most policy issues can be phrased in legitimate intelligence terms."

Mr. Kerr's answers for the record are consistent with his performance in the Iran-Contra affair. When he was told to prepare material for Bud McFarlane to use in briefing Iran, he made sure that the program was duly authorized, but did not determine whether it was wise or whether the material he prepared had been useful. When he heard one professional's view that funds might be going to the Contras, he told his immediate superior but did nothing more. He went by the book, asking only those questions necessary to ensure that his people were not breaking the law. This was despite the fact that he was a member of the Covert Action Review Group—a panel that was supposed to review all covert action programs, but had not been consulted on this one.

Mr. President, I am voting in favor of Mr. Kerr's confirmation despite my reservations. I hope that his background and his professionalism will prompt Mr. Kerr, once he becomes Deputy Director of Central Intelligence, to assert himself and to make sure that the experience and wisdom of intelligence professionals are brought to bear on high-level decisions relating both to intelligence operations and to the intelligence judgments presented to policymakers.

Richard Kerr has been an intelligent and able bureaucrat. Now he must go beyond that and help lead the intelligence

community through both the normal trials of dealing with policymakers and the special challenges that a tight budget will impose. I hope he understands that need and will be an active leader—not merely a loyal member of the team.

Mr. MITCHELL. Mr. President, I ask unanimous consent that a motion to reconsider en bloc be laid upon the table, and that the President be immediately notified of the confirmation of the nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

REPUBLICAN LEADER TIME ON TOMORROW

Mr. DOLE. Mr. President, I wish to indicate that I will not be using my leader time. If anyone needs that time in the morning, it is available.

RECESS UNTIL 8:45 A.M. TOMORROW

Mr. MITCHELL. Mr. President, if the Republican leader has no further business and if no Senator is seeking recognition, I ask unanimous consent that the Senate stand in recess under the previous order until 8:45 a.m. tomorrow.

There no objection, the Senate, at 8:04 p.m., recessed until Friday, March 17, 1989, at 8:45 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate March 16, 1989:

IN THE ARMY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 801(A), IN CONJUNCTION WITH ASSIGNMENT TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 801(A):

To be general

LT. GEN. COLIN L. POWELL, 113-22-4024, U.S. ARMY.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 801(A), IN CONJUNCTION WITH ASSIGNMENT TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 801(A):

To be lieutenant general

MAJ. GEN. DONALD W. JONES, 401-48-2810, U.S. ARMY.

IN THE ARMY

THE U.S. ARMY RESERVE OFFICERS NAMED HEREIN FOR APPOINTMENT AS RESERVE COMMISSIONED OFFICERS OF THE ARMY, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 593(A), 5371 AND 5394:

To be major general

BRIG. GEN. JOSEPH E. BROOKS, 066-38-6910.
BRIG. GEN. JAMES W. HOISINGER, JR., 341-08-6212.
BRIG. GEN. HOMER A. JOHNSON, JR., 002-23-4530.
BRIG. GEN. JAMES R. LAND, 034-34-0128.
BRIG. GEN. JOHN R. MCWATERS, 340-46-4314.

BRIG. GEN. EUGENE J. YONNO, 140-26-3040.

To be Brigadier General

COL. WILLIAM J. COLLINS, JR., 119-33-0838.
COL. EDUARDO A. GONZALEZ, 800-63-6328.

CENTRAL INTELLIGENCE

RICHARD J. KERR, OF VIRGINIA, TO BE DEPUTY DIRECTOR OF CENTRAL INTELLIGENCE.

IN THE AIR FORCE

AIR FORCE NOMINATIONS BEGINNING EUGENE A. BEARDSLEE, AND ENDING FLOYD J. WYGANT, II, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 2, 1989.

AIR FORCE NOMINATIONS BEGINNING DAVID L. CLOE, AND ENDING ROGER P. SURO, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 2, 1989.

AIR FORCE NOMINATIONS BEGINNING MICHAEL L. ARBETT, AND ENDING DANIEL C. ZOOK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 2, 1989.

AIR FORCE NOMINATIONS BEGINNING TIMOTHY L. ABEL, AND ENDING WILLIAM P. ZUBER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 2, 1989.

IN THE ARMY

ARMY NOMINATIONS BEGINNING "BARBARA M. ALVING, AND ENDING "EDMUND P. WIKER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 3, 1989.

ARMY NOMINATIONS BEGINNING ERIC D. ADRIAN, AND ENDING CHARLES J. YOWLER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 3, 1989.

ARMY NOMINATIONS BEGINNING SHIRLEY O. FORD, AND ENDING CHARLES FERRIS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 3, 1989.

ARMY NOMINATIONS BEGINNING KENNETH P. ADGIE, AND ENDING KARL D. ZETMEIR, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 3, 1989.

ARMY NOMINATIONS BEGINNING MICHAEL C. AARON, AND ENDING RANDAL D. ROBINSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 3, 1989.

ARMY NOMINATIONS BEGINNING FRANK E. CHAPLE, II, AND ENDING "BONNIE L. SMOAK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 3, 1989.

ARMY NOMINATIONS BEGINNING BRAM H. BERNSTEIN, AND ENDING JAMES R. WOODS, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 2, 1989.

ARMY NOMINATIONS BEGINNING JOHN M. LONG, AND ENDING "THOMAS E. RIGSBEE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 2, 1989.

ARMY NOMINATIONS BEGINNING "ROBERT H. LANGSTON, AND ENDING "GARY S. MADONNA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 2, 1989.

NAVY

NAVY NOMINATIONS BEGINNING DAVID A. AUSTIN, AND ENDING SHELDON L. WEIDER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 2, 1989.

NAVY NOMINATIONS BEGINNING ARNE J. ANDERSON, AND ENDING KRISTEN C. ZELLER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 3, 1989.

NAVY NOMINATIONS BEGINNING MICHAEL J. EPSTEIN, AND ENDING BENJAMIN T. PO, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 7, 1989.

NAVY NOMINATIONS BEGINNING KELLY N. ALVEY, AND ENDING DAVID B. HURST, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 7, 1989.

NAVY NOMINATIONS BEGINNING JOHN B. ANDERSON, AND ENDING JERRY LEE ZUMBRO, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 7, 1989.

PUBLIC HEALTH SERVICE

PUBLIC HEALTH SERVICE NOMINATIONS BEGINNING DUANE F. ALEXANDER, AND ENDING BEVERLY A. ROTH, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 3, 1989.